

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

CH

Dominick Giampaolo)
Plaintiff)
Vs.) Case No. 07-C-7154
Terry McCann, et al.)
Defendants)

FILED


NOTICE OF FILING

To: Atty Austin Franklin
Asst. atty. General
100 West Randolph St
13th Floor
Chicago, IL. 60601

JUL 21 2008 MB
JUL 21 2008
MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

PLEASE TAKE NOTICE that on July 15, 2008, the Plaintiff Dominick Giampaolo caused the following to be filed with the Clerk of the Court US District Court in Chicago, IL, the following attached document which is hereby served upon you;

MOTION FOR SANCTIONS AND DEFAULT JUDGMENT



Dominick Giampaolo

Dominick Giampaolo
R04860
Danville COrr. Ctr.
3820 East Main
Danville, IL. 61834

CERTIFICATE OF SERVICE

I, Dominick Giampaolo, a non-attorney, hereby certify that the proper number of the foregoing documents have been mailed to the parties named and listed above and to the Clerk of the Court, by placing them in the U.S. mail in envelopes with proper postage prepaid, located at the Danville C.C. in Danville, IL on July 15, 2008. This certificate being made under penalty of perjury pursuant to 28 USC 1746 and 18 USC 1621.

Signed this 15th day of July, 2008.


Dominick Giampaolo

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

JUL 21 2008

mB

MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT.

Dominick Giampaolo)
Plaintiff)
vs.)
Terry McCann, et al.)
Defendants)

Case No. 07-C-7154MOTIONS FOR SANCTIONS AND DEFAULT JUDGMENT

NOW COMES the Plaintiff, Dominick Giampaolo, PRO-SE, and moves this Honorable Court, pursuant to Federal Rules of Civ. Proc. 37 (c)(1) and Fed. Rules. Civ. Proc 56 for an order for sanctions against Defense counsel Austin E. Franklin and for the default of all claims in the above captioned matter for failure to comply and act in good faith with the rules of discovery, giving misleading pleadings, and violating federal law. In support, and as the basis of this motion, the Plaintiff states as follows;

1. On December 20, 2007 Plaintiff filed the above captioned complaint with this court.
2. On May 1, 2008 Plaintiff mailed a letter to Asst. Atty. General Jim Doran seeking a meeting to try to settle the claim.
3. On May 29, 2008 AAG Doran met with the Plaintiff and discussed the possibility of settlement which he told the Plaintiff was reasonable.
4. On June 10, the deadline for filing an answer to the complaint, the Defendants through AAG Austin Franklin asked for a Extension of time stating that ;
 "4. It is the Defendants position that this matter can be resolved through a settlement agreement and therefore would like the opportunity to continue settlement discussions with the Plaintiff **before filing an answer.**" (bold type added).
5. Plaintiff was told by AAG Jim Doran that he would return in about 3 weeks from May 29, 2008, he never returned and has not communicated with the plaintiff to this day.
6. On approximately June 25, 2008 the Plaintiff received a large box of apparnet discoverable material from the Officer of the Attorney General refereing to the above captioned case.
7. The Plaintiff was suprised to find these discoverable materials contained PRIVILEGED INFORMATION in violation of the HIPPA rules specifically the Plaintiffs MEDICAL AND PSYCHOLOGICAL records.
8. The Plaintiff HAS NOT signed a release of medical records in the above captioned case and knows of no court order by this court permitting the release of the Medical and Psychological records.
9. Plaintiff upon looking through the material sent to him uncovered a copy of inter-office e-mails between the Stateville Litigation corrodinator, Kathleen Sandline to the Danville Litigation coordinator, Judy Wyatt.

10. This e-mail copy is attached as Exhibit A in support of this Motion and hereby made part hereof in substance and in fact.
11. Plaintiff attached the Defendants Motion for Extension of Time in support of No. 4 herein as EXHIBIT B and hereby makes it part hereof in substance and in fact.
12. Plaintiff attaches examples of the ILLEGALLY obatined information sent to him by AAG Franklin (note the stamp in lower right corners) designated as EXHIBIT C and hereby makes it part hereof in substance and in fact.
13. Plaintiffs is concerned that the Attorney Generals office is using undue influence, conspiring with co-workers of the Defendants who work for the same corporation the Illinois Department of Corrections, to illegally obtain information about the Plaintiff which is privileged under the HIPPA rules.
14. Plaintiff has acted in GOOD FAITH in all his pleadings with the Attorney Generals office and as the Defendants know this is NOT the Plaintiffs only lawsuit.
15. Plaintiff is concerned that the ILLEGALLY obtained information is shared with the Attorney Generals office which represents the Illiois Department of Corrections in two other active lawsuits and that this information will taint those lawsuits.
16. The Plaintiff has been prejudiced by the ILLEGAL ACTIONS of the AAG Franklin in that his PRIVATE information has now been made very public including access by unauthorized IDOC litigation coordinators.
17. The Plaintiff was prejudiced by the AAG Franklin and Doran giving misleading statements and pleadings to the Plaintiff causing him to believe a settlement was possible and that there would be a follow-up meeting, thus causing the Plaintiff to not Amend his pleading sooner, not beign discovery, and to waste valuable time in bringing other motions to protect his rights and safety.

SANCTIONS

Federal Rules of Civ. Proc 27 et. al. authorizes this court to enter an order for sanctions against the parties that willfully and consciously disregard the Rules of the Court, discovery rule violations, and acting in bad faith, including but not limited to;

- 1) Summary Judgment, Rule 56;
- 2) Costs or fees;
- 3) Refusing disobedient party to oppose claims;
- 4) reporting the offending attorneys to the ARDC;
- 5) charges against the AAG Franklin and Litigation coordinators named herein

CONCLUSION

The Plaintiffs case has been damaged by the deception and deliberate discovery and federal rules (HIPPA) violations. Plaintiff attached his affidavit in support of this motion as EXHIBIT D and hereby makes it part hereof.


The Plaintiff respectfully asks that the Attorney Genreals office be dismissed from representing the Defendants in this above captioned case, and/or all Plaintiffs cases they represent defendants, to cite

CONCLUSION (Cont.)

... the AAG's with contempt and/or bring whatever appropriate charges for the BLATENT invasion of Plaintiffs privacy, order summary judgment against the Defendants for all claims, and reimburse the Plaintiff for his legal copy and mail costs and his filing fees and any other and such further relief as this court deems fit and proper.

Plaintiff reserves the right to file any new legal claims concerning his HIPPA rights with courts and/or law enforcement agencies.

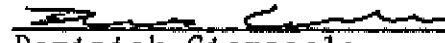
Respectfully Submitted,


Dominick Giampaolo, R04860
Danville Corr. Ctr.
3820 East Main
Danville, IL. 61834

CERTIFICATION

By signing this complaint, I certify that the facts stated in this complaint are true and correct to the best of my knowledge, information, and belief and that the attached exhibits are what they are purported to be. I understand that if this certification is not correct, i may be subject to sanctions by the court. This certificate is made under penalty of perjury pursuant to 28 USC 1746 and 18 USC 1621.

Signed this 15th day of July, 2008.


Dominick Giampaolo
Plaintiff, Pro-se

CERTIFICATE OF SERVICE

I, Dominick Giampaolo, a non-attorney, certify that I have caused the foregoing pleading to be served upon the attorney of record and the Clerk of the Court, by placing the proper number of copies in the U.S. mail located in Danville, IL on the 15th day of July, 2008. This certificate of service is made under penalty of perjury 28 USC 1746 and 18 USC 1621.

Signed this 15th day of July, 2008.



Dominick Giampaolo
Plaintiff, pro-se

EXHIBIT A

Babb, Michelle
From: Wyatt, Judy
Sent: Wednesday, April 02, 2008 11:53 AM
To: Marshall, Jim; Babb, Michelle
Subject: FW: Dominick Giampaolo, R04860

It's actually something "special" for the 2 of you!!!! As she said, not urgent – let's go with NLT 4/15. Thanks!

Judy Wyatt
Operations/Programs Secretary
Benefits Coordinator/Litigation Coordinator
Danville Correctional Center

From: Sandlin, Kathleen
Sent: Wednesday, April 02, 2008 11:42 AM
To: Wyatt, Judy
Subject: Dominick Giampaolo, R04860

Judy,

I thought that I had something special for you and I do! Just for you I have a request regarding Mr. Giampaolo, R04860:

Any and all grievances and their resolution regarding the time frame of April 18, 2007 to June 6, 2007, regarding Stateville, conditions, medical, strip searches, etc.

His medical regarding his chronic conditions requests for low bunk, low gallery, extra pillow for his back and spina bifida, also a copy of his medications that he was on in April through June of 2007.

If there is a list of what he was sent to Stateville with regarding medications that would be helpful.

This is not urgent anytime in the next couple of weeks.

Thank you,
Kathleen Sandlin
Litigation Coordinator
Stateville Correctional Center
TX: 815 727-3623
JX: 815 727-3669

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

DOMINICK GIAMPAOLO, #R-04860)	
)	
Plaintiff,)	No. 07 C 7154
)	
v.)	Hon. John W. Darrah
)	Judge Presiding
TERRY McCANN, et al.,)	
)	
Defendants.)	

NOTICE OF MOTION

TO: Dominick Giampaolo, #R-04860
Danville Correctional Center
3820 East Main Street
Danville, Illinois 61834

PLEASE TAKE NOTICE that on June 10, 2008, at 9:00 a.m., or as soon thereafter as counsel can be heard, I shall appear before the Honorable John W. Darrah or whomever may be sitting in his stead in Room 1203, of the United States District Court, Northern District of Illinois, Eastern Division, 219 S. Dearborn Street, Chicago, Illinois 60604, and shall present the attached **MOTION FOR EXTENSION OF TIME**, a copy of which is hereby served upon you.

LISA MADIGAN
Attorney General of Illinois

By: s/Austin E. Franklin
AUSTIN E. FRANKLIN
Assistant Attorney General
General Law Bureau
100 West Randolph Street, 13th Fl.
Chicago, Illinois 60601
(312) 814-3700

CERTIFICATE OF SERVICE

The undersigned being duly sworn upon oath deposes and states that a copy of the foregoing was served upon the above named at the address indicated by U.S. MAIL on June 2, 2008.

s/Austin E. Franklin

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

DOMINICK GIAMPAOLO #R-04860,)	
)	No. 07 C 7154
Plaintiff,)	
)	Hon. John W. Darrah
v.)	Judge Presiding
)	
TERRY McCANN, et al.,)	
)	
Defendants.)	

MOTION FOR EXTENSION OF TIME

NOW COME defendants TERRY McCANN, LEONARD GARBS, CLARENCE WRIGHT, ROBERT CATTANEO, PEGGY WILSON (HESTER), JEFFREY NURSE, CHARLES PHELPS, LT. JACKSON, MICHAEL HOPKINS, CLARENCE EGBE, JOHNNIE FRANKLIN, JENINE DOUGLAS, SEYMOUR WHITE, KRUT JOSEPH, ANTHONY BUSH and LESTER HAWK by and through their attorney LISA MADIGAN, Attorney General of the State of Illinois, and pursuant to F.R.C.P. 6(b)(1), hereby moves this Honorable Court for an extension of time within which to answer or otherwise plead. In support of this motion, defendants state the following:

1. On May 6 2008, Assistant Attorney General Jim Doran received a letter from Plaintiff, Dominick Giampaolo, dated May 1, 2008. Mr. Giampaolo's letter expressed his interest in meeting face to face with AAG Doran to possibly resolve this matter through a settlement agreement.

2. On Thursday, May 29, 2008, AAG Doran met with Mr. Dominick Giampaolo at the Danville Correctional Center located in Vermilion County, Illinois. At that meeting Plaintiff submitted his settlement demands to AAG Doran and also discussed the possibility of resolving this matter through settlement.

3. Counsel for the defendants is now awaiting settlement authority from the Department of Corrections. Counsel for the Defendants believe that they will have the information regarding the Department's position on Plaintiff's settlement demands within 30 days, at which time settlement discussions would be complete.

4. It is the Defendants position that this matter can be resolved through a settlement agreement and therefore would like the opportunity to continue settlement discussions with the Plaintiff before filing an answer.

5. Defendants respectfully requests an extension of 30 days to file an answer or otherwise plead.

6. This motion is brought in good faith and in the interest of judicial economy and not for purposes of delay and the plaintiff will not be unduly prejudiced by the granting of this motion.

WHEREFORE, the defendants request a 30-day extension of time so that they may be allowed to resolve this matter through settlement.

Respectfully submitted,

LISA MADIGAN
Attorney General of Illinois

By: s/Austin E. Franklin
AUSTIN E. FRANKLIN
Assistant Attorney General
General Law Bureau
100 W. Randolph St., 13th Fl.
Chicago, Illinois 60601
(312) 814-3700



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

June 23, 2008

Dominick Giampaolo, # R-04860
Danville Correctional Center
3820 East Main Street
Danville, Illinois 61834

RE: Dominick Giampaolo v. McCann et al., 07-CV-7154

Dear Mr. Giampaolo # R-04860:

Enclosed are Rule 26 (a)(1) disclosures.

MENTAL HEALTH EVALUATION

Name Scarpalho, Dennis age 37 Number RO 4860
 Date 10/29/07

Reason for Referral:

PSY HT

Subjective Data:

albeit somewhat but nervous
 C/O loss of coping techniques
 C/O Social Stressors

Objective Data and History:

Reports Hx of IBS when and noted
 able to manage Bipolar 97. NO PSI History
 OP 97 - . Denies HT S/A
 finally denies alcohol Hx.

Diagnosis (provisional/final)

Axis I Anxiety Disorder NOS + B/P
 Axis II _____

Summary and Treatment Plan:

F/G VSV and PSI
 Review of report & assessment

James T. M. PhD 10/29/07
 Signed Date

Imaging Radiologist

319 E. Madison Street
Springfield, Illinois 62701
(217) 528-4770

PATIENT:

Giampaola, Dominick

FACILITY:

Dixon Correctional Center

PRISON #:

R04860

PHYSICIAN:

Mesrobian

DATE PERFORMED:

6-14-02

AGE:

5-23-67

RADIOLOGICAL REPORT**LUMBAR SPINE**

Initial Indication: Rule out scoliosis

AP and lateral views

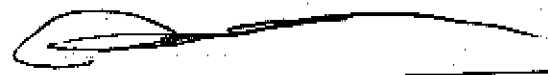
There is a rib arising from the T12 vertebral body on the left side but not on the right side. There is partial sacralization of L5. There is a spina bifida at the L5 level.

The lumbar vertebral bodies are normal in height. There is no scoliosis. There is approximately a 2 to 3 mm posterior offset of L4 with respect to L5. The remainder of the lumbar vertebral bodies are in normal alignment. The intervertebral disc spaces are intact. There is no spondylolysis.

CONCLUSION: 1. There is partial sacralization of L5. There is a unilateral rib at T12. There is a spina bifida of L5.

2. The disc spaces in the lumbar region are intact. There is approximately a 2 to 3 mm posterior offset of L4 with respect to L5.

JUN 17 2002


Peter E. Weinberg, M.D./jmw
Neuroradiologist

D/T: 06/17/02

1008

EXHIBIT C-4

*BEGIN USING FROM BOTTOM UP

State of Illinois
Dept. of CorrectionsPRESCRIPTION ORDER
Chart Copy (Not a prescription)

Patient _____

Reg. # _____

Date: _____

Problem _____

ORDER: (Physician's Signature After Last Order) _____

DEA/Illinois Lic. # _____

Physician (Print) _____

☐ May Substitute

M.D.

☐ May Not Substitute

M.D.

Date: _____

DCA 7000
IL 425-1417

Noted by: _____

State of Illinois
Dept. of CorrectionsPRESCRIPTION ORDER
Chart Copy (Not a prescription)

Patient _____

Reg. # _____

Date: 11.29.04

Problem _____

ORDER: (Physician's Signature After Last Order) _____

DEA/Illinois Lic. # _____

Physician (Print) _____

☐ May Substitute

M.D.

☐ May Not Substitute

M.D.

Date: 11/29/04

DCA 7000
IL 425-1417

Noted by: _____

State of Illinois
Dept. of CorrectionsPRESCRIPTION ORDER
Chart Copy (Not a prescription)

Patient _____

Reg. # _____

Date: 11/17/04

Problem _____

ORDER: (Physician's Signature After Last Order) _____

DEA/Illinois Lic. # _____

Physician (Print) _____

☐ May Substitute

M.D.

☐ May Not Substitute

M.D.

Date: 11/17/04

DCA 7000
IL 425-1417

Noted by: _____

EXHIBIT D

AFFIDAVIT OF DOMINICK GIAMPAOLO

I, Dominick Giampaolo, affirm and declare under penalty of perjury pursuant to 28 USC 1746 and 18 USC 1621 the following to be true and correct to the best of my knowledge and belief;

1. On May 29, 2008 Asst. Atty. General Jim Doran met with me in response to my letter seeking a discussion about settling the lawsuit of the attached captioned cause.
2. The meeting concluded with AAG Doran claiming that my terms were reasonable and that he would return with an answer in 3 weeks.
3. AAG Doran has never contacted me since that day.
4. I received a copy of the Defendants Motion to Extend their time to answer the complaint about June 13, 2008 and it stated that the Defendants believed the could come to a settlement.
5. Tha I have acted in good faith and spoken truthfully in all that regards my claim.
6. That if I had not been lied to I would have amended my complaint based on new and additional information and begun discovery processes.
7. That around June 25, 2008 I received a large box of discovery that was aquired, according to the enclosed letter (Exhibit C-1) via Rule 26 (a)(1).
8. That I inspected the contents and discovered my medical and psychological records had been released to the AAG Austin Franklin by his request through IDOC litigation coordinators at Stateville and Danville.
9. That I am extremely concerned that defending my rights will cause retaliatory actions by IDOC as was done to me in my lawsuit against Hill C.C. (06-CV-1186 C.D. Ill) which would endanger my life, again.
10. That I have not signed a release of my medical files to the AAG Austin Franklin and did not receive an order permitting such from this court.

I further sayeth not.

Dated: July 15, 2008

Signed,



Dominick Giampaolo

R04860

Danville Corr. Ctr

3820 East Main

Danville, IL. 61834